

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE: REMBRANDT TECHNOLOGIES,)
LP PATENT LITIGATION) MDL Docket No. 07-md-1848 (GMS)
)

ORDER

WHEREAS, on June 21, 2007, the Judicial Panel of Multidistrict Litigation issued a Transfer Order in the above-captioned action, which consolidated fifteen patent infringement actions filed by the plaintiff, Rembrandt Technologies, LP (“Rembrandt”), in this court (D.I. 1);

WHEREAS, from August 5, 2008 to August 7, 2008, the court held a three-day *Markman* hearing (D.I. 434-436);

WHEREAS, on November 7, 2008, the court issued its *Markman* order for U.S. Patent No. 5,243,627 (the “‘627 patent”) (D.I. 445);

WHEREAS, on November 19, 2008, the court issued its *Markman* order for the Eight Patents (D.I. 458);¹

WHEREAS, on July 21, 2009, the defendants filed a Motion For Summary Judgment of Noninfringement Of U.S. Patent No. 5,243,627 (D.I. 837);

WHEREAS, on July 31, 2009, with regard to the Eight Patents, Rembrandt filed a Motion To Dismiss (A) Its Claims Against All Parties For Infringement Of Certain Patents In Suit, And (B) All Other Parties’ Defenses, Claims, and Counterclaims For Lack Of Jurisdiction And As Moot (D.I. 843);²

¹ The Eight Patents include U.S. Patents Nos. 5,852,631; 5,719,858; 4,937,819; 5,008,903; 5,778,234; 6,131,159; 6,950,444; and 5,710,761. The ‘627 patent is considered separate from the Eight Patents.

² At the outset of litigation, the parties submitted a Joint Status Report establishing that “all parties adverse to Rembrandt, whether they are defendants or declaratory relief claimants,” would be referred to as “All Other Parties.” (D.I. 26 at 1.)

WHEREAS, on October 1, 2009, the court held a telephone conference with the parties and entered a stay (D.I. 879);

WHEREAS, on October 23, 2009, the court granted Rembrandt's motion to dismiss, but conditioned its ruling on Rembrandt supplementing its covenant not to sue to include DOCSIS-compliant products and services (D.I. 880);

WHEREAS, On October 30, 2009, Rembrandt informed the court that it executed the supplemental covenant not to sue on the Eight Patents (D.I. 881);

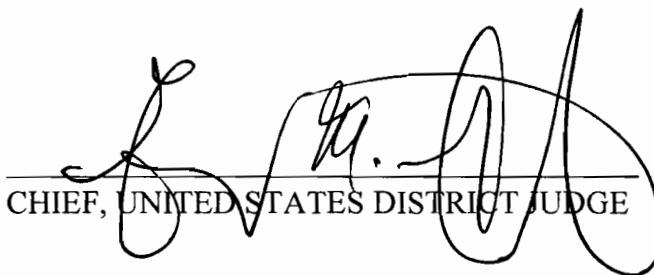
WHEREAS, the only remaining patent-in-suit is the '627 patent, and the defendants' motion for summary judgment of noninfringement as to that patent is pending,³

WHEREAS, the court having considered this pending motion, the response and reply thereto, and the applicable law, concludes that there are numerous disputes of material fact that raise genuine issues for trial;

IT IS HEREBY ORDERED that the defendants' motion for summary judgment of noninfringement (D.I. 837) is DENIED;

IT IS FURTHER ORDERED that the parties shall meet and confer and report back to the court within thirty (30) days from the date of this Order. Specifically, counsel shall file a Joint Status Report that identifies outstanding issues and contains a proposed schedule for the balance of this action.

Dated: July 5, 2011



CHIEF, UNITED STATES DISTRICT JUDGE

³ On December 28, 2009, the parties filed a stipulation and order reopening the case as to the Charter defendants. (D.I. 902.) That stipulation stated that the defendants' motion for summary judgment of the '627 patent "remains pending." (Id. at 1.)